

REMARKS

Claims 1-4 and 7-31 are pending in the application before entry of this amendment. By way of this amendment, Claims 1 and 21 have been amended to address the most recent Office Action. Claims 5-6 and 31-33 are canceled.

Section 112 Rejections Overcome

Claims 1-4 and 7-31 have been rejected under 35 USC 112, second paragraph for indefiniteness. To address the rejection, Claim 1 has been amended to recite a first dispenser part, comprising a storage area for storing the unit products, and a second dispenser part comprising a dispensing module mounted on the storage area. A withdrawal of this rejection is respectfully submitted.

Sections 102 and 103(a) Rejections Overcome

Claims 1-33 have been rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wolf (USP 6,148,815, 'Wolf').

Applicant respectfully traverses each and every aspect of this rejection.

Applicant's claimed invention relates to a hand-held dispenser for dispensing a multiplicity of unit products having a first dispenser part, comprising a storage area for storing the unit products, a second dispenser part, comprising a dispensing module mounted on the storage area, an outlet opening through which the unit products are dispensable from the dispenser, a dispensing mechanism actuatable to dispense the unit products through the outlet opening, and a timing mechanism adapted in use to time the period since last dispensing of a unit product.

Applicant respectfully submits that Wolf does not anticipate independent claim 1 or the claims that depend therefrom as Wolf does not disclose all the features of independent claim 1. For example, Wolf does not disclose a storage area for storing unit products. Further, Wolf does not disclose a timing mechanism adapted in use to time the period since last dispensing of a unit product.

Wolf discloses an opening (see figure 1, 130) to receive a conventional inhalant dispenser, which is a metered dose inhalant (MDI) dispenser, and not a storage area for storing unit products. As its name would suggest, an MDI contains a reservoir of propellant and medicament, which is metered from the reservoir via a valve. Such an arrangement does not teach or suggest a storage area suitable for storing unit products.

Wolf discloses a date and time clock that is constantly powered in order that actuation of the device can be date stamped, in order to monitor patient compliance. The time of actuation of Wolf is recorded but no further action is taken by the device in order to time the period since dispensation occurred. Hence, Wolf does not teach or suggest a timing mechanism adapted in use to time the period since last dispensing of a unit product. Further, Applicant asserts that there is no teaching, suggestion, or motivation in Wolf that would lead to Applicant's claimed invention.

Applicant asserts that modification of either embodiment of Wolf to dispense unit products would fundamentally change its principle of operation. A person having ordinary skill in the art modifying the embodiment of Wolf (see figures 1 through 11) for the dispensing of unit products would have to remove the air sensing element (see figure 4, 435) and main sensing element (see figure 4, 425) in order to allow unit products to exit the device. Absent these features, this embodiment would be unable to record dispensation.

Furthermore, if the person having ordinary skill in the art were to modify the alternate embodiment of Wolf (see figures 12 through 20) for dispensing unit products, only the strain gauge (see figure 15a, 1555) could be used for detection of movement of the storage area, as unit products are not suited to detection by the air flow sensor fast response thermistor (see figure 15b, 1560) disclosed in Wolf. The strain gauge (1555) only records the time at which the dispenser unit is depressed, and does not detect that a unit product had been dispensed. Hence, even with modifications which fundamentally change the principle of operation of Wolf, it is unable to time the period since last dispensing of a unit product, even if the clock of Wolf were adapted to provide such a function.

In view of the above, a withdrawal of the rejection over Wolf is respectfully submitted.

Conclusion

All claim rejections being addressed in full, Applicant respectfully requests the withdrawal of the outstanding objections and rejections and the issuance of a Notice of Allowance. Should the Examiner have any questions regarding the foregoing, Applicant respectfully requests that the Examiner contact the undersigned, who can be reached at (919) 483-9995.

Respectfully submitted,

/Dwight S. Walker/
Dwight S. Walker
Agent for Applicant
Registration No. 63,170

Date: June 16, 2009
GlaxoSmithKline Inc.
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
(919) 483-9995
fax: (919) 315-4032
dwight.s.walker@GSK.com